

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

D'MONTEIRIO GIBSON,

Plaintiff,

V.

) Docket No. 3:23-cv-54-DPJ-FKB

FEDERAL EXPRESS CORPORATION,
CITY OF BROOKHAVEN, MISSISSIPPI,
CHIEF KENNY COLLINS, IN HIS
INDIVIDUAL AND OFFICIAL
CAPACITY, BRANDON CASE, and
GREGORY CASE,

Defendants.

DEFENDANT FEDERAL EXPRESS CORPORATION'S
MOTION TO DISMISS

Defendant Federal Express Corporation (“FedEx”), pursuant to Fed. R. Civ. P. 12(b)(6), files its Motion to Dismiss Plaintiff D’Monterrio Gibson’s (“Gibson”) Complaint (DE 1). The Court should grant FedEx’s motion on the following grounds: (1) Gibson’s negligent and intentional infliction of emotional distress claims are preempted by Mississippi’s workers’ compensation law, (2) the allegations supporting Gibson’s intentional infliction of emotional distress claim do not rise to the threshold level of extreme and outrageous conduct; and (3) Gibson’s allegations do not meet the “plausibility pleading standard” to maintain his 42 U.S.C. §1981 race discrimination claim.

FedEx attaches Exhibit A to this motion – Petition to Controvert, dated March 11, 2022.

FedEx simultaneously files its memorandum of law in support of this motion.

RESPECTFULLY SUBMITTED, this the 23rd day of March 2023.

s/ Michael C. Williams

Michael Williams (MS Bar #104537)

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2023, a copy of the foregoing was served on the parties listed below via the Court's ECF System:

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